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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,342	04/20/2001	Joseph I. Kravitz	E14.2-9321	1879

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VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

EXAMINER

CARRILLO, BIBI SHARIDAN

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 02/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/839,342

Applicant(s)

KRAVITZ ET AL.

Examiner

Sharidan Carrillo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 03.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 5 is rejected under 112, first paragraph, as failing to provide adequate written description for the recited formula of polyacrylate. Specifically, the claim fails to define the value of “n”.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite because it recites a multi-step cleaning process in the preamble, however, it only positively recites a step of flushing with a pre-rinse solution. Claim 1 is further indefinite because it is unclear what is meant by a “partially neutralized” anionic polymer. The specification fails to define partially neutralized. Claim 1 is further indefinite because “said cleaning solution” lacks positive antecedent basis. Claim 1 is further indefinite because it fails to positively recite a step of removing soils from the substrate.

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Claim 2 is indefinite because of its dependency. Claims 3-4 should be amended to recite proper Markush language "selected from the group consisting of" instead of "which". Claim 5 is indefinite because the value of "n" is undefined. Claims 6-7 are indefinite because of its dependency. Claim 8 is indefinite because it is unclear what is meant by "clean-in-place" and "clean-out of place". Claim 8 is further indefinite because it is unclear how "clean in place" and "clean out of place" can be considered as a process. Claim 9 is indefinite because "heat transfer equipment surfaces" lack positive antecedent basis since claim 9 is dependent on claim 8.

Claim 10 is indefinite because it is unclear at what point the additional step of flushing occurs in the multi-step cleaning process. For example, does the step of claim 10 occur before or after cleaning of the substrate with the cleaning solution. Claim 11 is indefinite because it is unclear whether "said rinse solution" refers to the solution of claim 1 or that of claim 10. Claim 12 is indefinite because it is unclear whether "the main wash solution" is the same or different from "said cleaning solution" of claim 1. Claim 12 is indefinite because it is unclear what is meant by a "neutral solution". Claims 13-15 are indefinite because of its dependency.

Claim 16 is indefinite because it is unclear whether the surface comes in contact with the food before or after being pre-rinsed with the anionic polymer. Claim 17 is indefinite because it is unclear what applicant means by "tank". Does applicant intend a "military tank" or a container. Claims 18-19 are indefinite because of its dependency. Claims 20-21 are indefinite because it is unclear what the difference is between whey and whey fractions and milk and milk fractions.

Claim 21 is indefinite because it is unclear what is being flushed in steps a and b. Claim 21 is indefinite because it is unclear what is meant by "partially neutralized" or "neutral rinse

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solution". Claims 22 and 25-26 are indefinite because of its dependency. Claim 23 is indefinite because it is unclear what is meant by "neutral wash solution". Claim 24 should be amended to recited "said pre-rinse solution".

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 6-12, 18-19, 21-23, and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Ramachandran et al. (4469605).

Ramachandran et al. teach a method for cleaning laundry using a heavy duty liquid detergent which can be used for pre-treating of badly soiled portions of items to be laundered. In reference to claims 1-2, 8, 18-19, and 22, Ramachandran et al. teach a composition having a builder salt comprising neutralized tripolyphosphate (col. 2, lines 39-55), for pre-treating laundry prior to washing (col. 8-9 bridging). In reference to claims 6-7, and 25, refer to col. 5, lines 50-55. In reference to claim 9 and in view of the indefiniteness, the limitations are met by Ramachandran. In reference to claims 10-12, 21, and 23, the limitations are inherently met since Ramachandran teaches pre-treating laundry prior to washing in a washing machine. The steps are inherently met since a washing cycle would include a main wash followed by rinsing with water. In reference to claim 26, refer to col. 1, lines 54-60.

7. Claims 1-3, 5-16, and 21-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Chun et al. (5133892).

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Chun et al. teach a detergent for use in dishwashing. In reference to claims 1-2, 8, and 21-23, refer to col. 7, lines 5-20, col. 9, lines 55-65. In reference to claims 3 and 24, Chun et al. teach 1000ppm of the anionic polymer (col. 8, lines 5-10). In reference to claim 5, refer to col. 7, lines 35-68. In reference to claims 6-7 and 25-26, refer to col. 8, lines 1-7. In reference to claim 9 and in view of the indefiniteness, the limitations are met by Chun et al. In reference to claims 10-12, refer to col. 9-col. 10 bridging. In reference to claims 13-16, the limitations are met since Chun et al. teach cleaning dishware which would include glass (col. 4, lines 20-25).

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

9. Claims 1-2, 4, 6-16, 18, 20-23, and 25-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Foley et al. (US2002/0037817).

Foley et al. teach a hard surface cleaning composition, preferably for removing soils from cookware. The composition can be used as a pre-treatment prior to the dishwashing process. In reference to claims 1-2, 8, 21, 22, 26, refer to paragraph 86. In reference to claim 4, refer to paragraph 122. In reference to claim 9 and in view of the indefiniteness, the limitations are met by Foley et al. In reference to claims 10-12, and 23, refer to paragraph 66, 67, and 157. In reference to claims 13-16, refer to paragraph 6. In reference to claims 20 and 27, refer to paragraph 6. In reference to claim 18, refer to paragraph 6.

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Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 3, 20, 24, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramachandran et al. (4469605).

Ramachandran et al. fail to teach the specific concentration of the anionic polymer, as

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recited in claims 3 and 24. However, in col. 2, lines 48-50, Ramachandran teaches the concentration of the polyphosphate should be less than 10 percent. It would have been obvious to one having ordinary skill in the art at the time the invention was made to adjust the concentration, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Ramachandran fail to specifically teach the type of soil removed from the fabric. However, it would have been within the level of the skilled artisan to have applied the method of Ramachandran for the removal of milk products since Ramachandran et al. teach a method of removing soils from laundry and many typical soil stains on laundry result from food products such as milk, as conventionally shown in the art (U.S. Patent 3725289).

13. Claims 4, 20, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chun et al. (5133892).

In reference to claims 4, Chun et al. fail to teach ethylenediamine tetraacetic acid. However, in col. 7, lines 40-45, Chun et al. teach that the salt of ethylenediamine tetraacetic acid can be used as an additional builder.

It would have been within the level of the skilled artisan to have modified the method of Chun et al. to include ethylenediamine tetraacetic acid since Chun et al. teach using salts of the acid and it is convention and notoriously well know in the art (U.S. Patent 5597789) to used EDTA and salts thereof interchangeably for the same intended purpose. In reference to claims 20 and 27, Chun et al. fail to specifically recite the type of soil removed. However, it would have been within the level of the skilled artisan to have applied the method of Chun et al. to the

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removal of milk products since Chun et al. teach the removal of soils from dishware which would include milk.

14. Claims 3, 17 and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Foley et al. (US2002/0037817).

Foley et al. teach the invention substantially as claimed with the exception of the specific concentration of the polymer as recited in claims 3 and 24. It would have been obvious to one having ordinary skill in the art at the time the invention was made to adjust the concentration, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Foley et al. fail to teach the limitations of claim 17. However, Foley et al. teach the composition for cleaning of a hard surface. It would have been within the level of the skilled artisan to have modified the method of Foley et al. to include cleaning a pipeline, a tank, or a silo, since Foley teach using the composition for cleaning of hard surfaces, and pipelines, tanks, and silos are hard surfaces.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cords teaches pre-rinsing PET bottles. Mouret teaches pre-washing laundry. Smith et al. teach laundry pre-treatment. Foley et al. teach a cleaning composition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharidan Carrillo whose telephone number is 703-308-1876. The examiner can normally be reached on Monday-Friday, 6:00a.m-2:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on 703-308-4333. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7719 for regular communications and 703-305-7719 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Sharidan Carrillo
Primary Examiner
Art Unit 1746

bsc
February 20, 2003

A handwritten signature in black ink, appearing to read 'Sharidan Carrillo', with a stylized flourish at the end.

SHARIDAN CARRILLO
PRIMARY EXAMINER